

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION

UNITED STATES OF AMERICA *

Plaintiff, *

vs. * Civil Action No.:JKB-12-1408

AMERICAN SUGAR REFINING, INC. *

Defendant. *

* * * * *

JOINT MOTION TO MODIFY CONSENT DECREE

Plaintiff United States of America, on behalf of the Environmental Protection Agency (“EPA”) and Defendant American Sugar Refining, Inc. (“American Sugar”) hereby jointly move to modify the Consent Decree entered by this Court on July 2, 2012. In support of the motion the parties state as follows:

1. On July 2, 2012, this Court entered a Consent Decree pursuant to which the parties resolved certain allegations by the United States against American Sugar regarding the operation of boilers 1-4 and 6 at American Sugar’s Baltimore refinery. *See* Consent Decree, Document No. 6.
2. The terms of the Consent Decree require American Sugar to install “Control Technology” (defined as Ultra-Low NOx Burners) on boilers 1-4 and 6. The primary purpose of the Control Technology is to reduce NOx emissions from the facility.

3. For boilers 2 and 4, the Control Technology was required to be installed and commenced operation by September 1, 2012. (Consent Decree ¶ 10.a.) For boilers 1 and 3, the Control Technology was required to be installed and commence operation by February 29, 2013. (Consent Decree ¶ 10.b.) For boiler 6, the Control Technology is required to be installed and commence operation by April 1, 2013. (Consent Decree ¶10.c.)
4. American Sugar has installed the Control Technology on boilers 1-4 in accordance with the Consent Decree. Based on emissions data from boilers 1-4 since installation of the Control Technology in those boilers, American Sugar has reason to believe that the installation of the Control Technology on boiler 6 will result in an increase in NOx emissions, rather than a decrease.
5. American Sugar has notified EPA of its concerns regarding the installation of the Control Technology in boiler 6.
6. In order to give the parties time to meet to begin evaluating American Sugar's technical concerns before American Sugar is required to begin the process of installing the Control Technology on boiler 6, the parties agree to an immediate one-month extension of the April 1, 2013 deadline specified in Paragraph 10.d of the Consent Decree.
7. Granting this motion is in the public interest as it will allow the parties time to evaluate technical concerns with the installation of the Control Technology on boiler 6 and potentially avoid causing an increase in NOx emissions. Once American Sugar begins the process of installing the Control Technology on boiler 6, it would be technically infeasible to reverse the process and re-install the old burner.

8. The parties are not requesting a modification of any of the NOx emission levels or operating limitations, merely an extension of the deadline to install the Control Technology on boiler 6.
9. This motion is not made for purposes of delay.

WHEREFORE, the parties respectfully request that the Court grant this Motion and modify Paragraph 10.c of the Consent Decree to allow American Sugar to have until May 1, 2013 to install the Control Technology in boiler 6. A proposed Order is attached.

Respectfully submitted,

/s/

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** A copy of the original signature page is attached as Attachment 1

/s/

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